

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MASSACHUSETTS

DANIEL FERULLO d/b/a  
HIT & RUN SPORTS AND GAMES,  
Plaintiff

vs.

UNITED STATES POSTAL SERVICE,  
Defendant

Civil Action No. 04-12016NMG

DEFENDANT'S MOTION TO DISMISS

The defendant, United States Postal Service ("United States"), hereby moves to dismiss the plaintiff's Complaint for lack of subject matter jurisdiction pursuant to Fed. R. Civ. P. 12(b)(1) and 12(h)(3).

Respectfully submitted,

UNITED STATES POSTAL SERVICE,

By its attorney,

MICHAEL J. SULLIVAN

United States Attorney

By: *Gina Walcott-Torres*  
Gina Y. Walcott-Torres  
Assistant U.S. Attorney  
Moakley U.S. Courthouse  
1 Courthouse Way, Suite 9200  
Boston, MA 02210  
(617) 748-3369

CERTIFICATE OF SERVICE

This is to certify that I have this 30<sup>th</sup> day of April 2005, served upon the person listed below a copy of the foregoing document by depositing in the United States mail a copy of same in an envelope bearing sufficient postage for delivery:

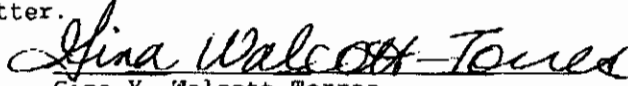
Daniel Ferullo (d/b/a Hit & Run Sports and Games), pro se, 523 Lowell Street, Lexington, MA 02420

*Gina Walcott-Torres*  
Gina Y. Walcott-Torres  
Assistant United States Attorney

To Who It May Concern  
I received this after calling. As you can see  
The date is 5/6/05 by fax. *En terminal C*

LOCAL RULE 7.1(A)(2) CERTIFICATION OF COMPLIANCE

The undersigned counsel certifies that pursuant to the requirements under Local Rule 7.1(A)(2), she informed the plaintiff, Daniel Ferullo, of the relief requested by this motion in open court at the April 14, 2005, Scheduling Conference in this matter.

A handwritten signature in cursive script, reading "Gina Walcott-Torres".

Gina Y. Walcott-Torres  
Assistant United States Attorney